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PART IV

Acts of the Dominion Legislature assented to by the Governor General

GOVERNMENT OF INDIA

MINISTRY OF LAW

New Delhi, the 8th September, 1948.

The following Acts of the Dominion Legislature received the assent of the Governor General on the 8th September, 1948 and are hereby published for general information:—

Act No. XLVIII of 1948

An Act further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922 (XI of 1922) and the Business Profits Tax Act, 1947 (XXI of 1947), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. **Short title.**—(1) This Act may be called the Income-tax and Business Profits Tax (Amendment) Act, 1948.

(2) Sections 3 to 12 shall be deemed to have come into force on the 30th day of March, 1948, and the amendment made in the Indian Income-tax Act, 1922 (XI of 1922) by section 2 shall be deemed to be operative so as to apply in relation to all assessments subsequent to the assessment for the year ending on the 31st day of March, 1948.

Sections 13 to 15 shall be deemed to have come into force on the day on which the Business Profits Tax Act, 1947 (XXI of 1947) came into force.

CHAPTER II

AMENDMENT OF ACT XI OF 1922

2. **Amendment of section 2, Act XI of 1922.**—For clause (6) of section 2 of the Indian Income-tax Act, 1922 (hereinafter in this Chapter referred to as the

said Act), the following shall be substituted, namely:—

“(6) “company” means an Indian company as defined in clause (7A) or any Indian or non-Indian association, whether incorporated or not, which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act.”

3. Amendment of section 4, Act XI of 1922.—In *Explanation 2* to sub-section (1) of section 4 of the said Act, the words “and not being pension payable without India” shall be omitted.

4. Amendment of section 9, Act XI of 1922.—In section 9 of the said Act, after sub-section (3), the following sub-section shall be added, namely:—

“(4) For the purposes of this section, the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.”

5. Amendment of section 12B, Act XI of 1922.—In section 12B of the said Act,—

(a) in the third proviso to sub-section (2), after the words “property of the assessee” the words, brackets and figure “or of the previous owner where the cost of the capital asset to the previous owner is to be taken in accordance with sub-section (3)” shall be inserted;

(b) to sub-section (3) the following proviso shall be added, namely:—

“Provided that where the capital asset became the property of the assessee—

(i) before the 1st day of April, 1947, under a deed of gift or on the partition of a Hindu undivided family, the actual cost allowable to him shall be the fair market value of the capital asset on the date of the gift or the date of the partition, as the case may be, if such value is greater than the actual cost to the previous owner or the fair market value thereof on the 1st day of January, 1939, where the third proviso to sub-section (2) applies;

(ii) on or after the 1st day of April, 1947, on the partition of a Hindu undivided family, the cost allowable to him shall be the fair market value on the date of the partition.”

6. Amendment of section 14, Act XI of 1922.—To sub-section (1) of section 14 of the said Act, after the words “income of the family” the words “or in the case of an impartible estate where such sum has been paid out of the income of the holder of the estate belonging to the family” shall be added.

7. Insertion of new section in Act XI of 1922.—After section 33A of the said Act, the following section shall be inserted, namely:—

“33B. *Power of Commissioner to revise Income-tax Officer's orders.*—

(1) The Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

(2) No order shall be made under sub-section (1)—

(a) to revise an order of re-assessment made under the provisions of section 34; or

(b) after the expiry of two years from the date of the order sought to be revised.

(3) Any assessee objecting to an order passed by the Commissioner under sub-section (1) may appeal to the Appellate Tribunal within 60 days of the date on which the order is communicated to him.

(4) An appeal to the Appellate Tribunal under sub-section (3) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a treasury receipt in support of having paid the fee of Rs. 100, and such appeal shall be dealt with in the same manner as if it were an appeal under sub-section (1) of section 38."

8. Amendment of section 34, Act XI of 1922.—For section 34 of the said Act, the following section shall be substituted, namely:—

"34. *Income escaping assessment.*—(1) If—

(a) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of an assessee to make a return of his income under section 22 for any year or to disclose fully and truly all material facts necessary for his assessment for that year, income, profits or gains chargeable to income-tax have escaped assessment for that year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under the Act, or excessive loss or depreciation allowance has been computed, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that income, profits or gains chargeable to income-tax have escaped assessment for any year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under this Act, or that excessive loss or depreciation allowance has been computed,

he may in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that year, serve on the assessee, or, if the assessee is a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22 and may proceed to assess or reassess such income, profits or gains or recompute the loss or depreciation allowance; and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

Provided that—

(i) the Income-tax Officer shall not issue a notice under this sub-section, unless he has recorded his reasons for doing so and the Commissioner is satisfied on such reasons recorded that it is a fit case for the issue of such notice;

(ii) the tax shall be chargeable at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be; and

(iii) where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person under section 43, this sub-section shall have effect as if for the periods of eight years and four years a period of one year was substituted.

Explanation.—Production before the Income-tax Officer of account-books or other evidence from which material facts could with due diligence have been discovered by the Income-tax Officer will not necessarily amount to disclosure within the meaning of this section.

(2) Where an assessment is reopened in circumstances falling under clause (b) of sub-section (1), the assessee may, if he has not impugned any part of the original assessment order for that year either under section 30 or under section 33A, claim that the proceedings under sub-section (1) of this section shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the items alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made:

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 33B or section 35, or by a decision of the High Court or of the Privy Council under section 63 and section 66A.

(3) No order of assessment under section 23 to which clause (c) of sub-section (1) of section 28 applies or of assessment or re-assessment in cases falling within clause (a) of sub-section (1) of this section shall be made after the expiry of eight years, and no order of assessment or re-assessment in any other case shall be made after the expiry of four years, from the end of the year in which the income, profits or gains were first assessable:

Provided that where a notice under sub-section (1) has been issued within the time therein limited, the assessment or re-assessment to be made in pursuance of such notice may be made before the expiry of one year from the date of the service of the notice even if such period exceeds the period of eight years or four years, as the case may be:

Provided further that nothing contained in this sub-section shall apply to a re-assessment made under section 27 or in pursuance of an order under section 31, section 33, section 33A, section 33B, section 66 or section 66A."

9. Amendment of section 46, Act XI of 1922.—After sub-section (5) of section 46 of the said Act, the following sub-section shall be inserted, namely:—

"(5A) The Income-tax Officer may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the assessee at his last address known to the Income-tax Officer) require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the Income-tax Officer, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the tax-payer in respect of arrears of income-tax and penalty or the whole of the money when it is equal to or less than that amount.

The Income-tax Officer may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

Any person making any payment in compliance with a notice under this sub-section shall be deemed to have made the payment under the authority of the assessee and the receipt of the Income-tax Officer shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the amount referred to in the receipt.

Any person discharging any liability to the assessee after receipt of the notice referred to in this sub-section shall be personally liable to the Income-tax Officer to the extent of the liability discharged or to the extent of the liability of the assessee for tax and penalties, whichever is less.

If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Income-tax Officer, further proceedings may be taken by and before the Collector on the footing that the Income-tax Officer's notice has the same effect as an attachment by the Collector in exercise of his powers under the proviso to sub-section (2) of section 46.

Where a person to whom a notice under this sub-section is sent objects to it on the ground that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Income-tax Officer."

10. Omission of section 49, Act XI of 1922.—Section 49 of the said Act shall be omitted.

11. Amendment of section 49A, Act XI of 1922.—In section 49A of the said Act,—

(a) in sub-section (1),—

(i) for the words "on which has been paid" the words "on which have been paid" shall be substituted;

(ii) between the words "under this Act and" and "Dominion income-tax", the word "either" shall be inserted;

(iii) after the words "Dominion income-tax in one or more countries" at the end, the words "or Burma income-tax" shall be added;

(b) after sub-section (2), the following sub-section shall be added, namely:—

"(3) For the purposes of this section 'Burma income-tax' means any income-tax or super-tax charged under any law in force in Burma where the laws of Burma provide for relief in respect of tax charged on income both in Burma and in British India which appears to the Central Board of Revenue to correspond to the relief which may be granted by this section."

12. Amendment of section 49AA, Act XI of 1922.—In section 49AA of the said Act, after the word "Pakistan", wherever it occurs, the words "or the United Kingdom" shall be inserted.

CHAPTER III

AMENDMENT OF ACT XXI OF 1947

13. Amendment of section 2, Act XXI of 1947.—In section 2 of the Business Profits Tax Act, 1947 (hereafter in this Chapter referred to as the said Act),—

after clause (8), the following clause shall be inserted, namely:—

"(8A) "director's remuneration" includes all remuneration payable by a company to a director thereof in respect of any services rendered to or employment with the company in any capacity whatever;"

14. Amendment of section 9, Act XXI of 1947.—In section 9 of the said Act,—

(a) after the words “an individual”, wherever they occur, the words “or a Hindu undivided family”, after the words “such individual”, wherever they occur, the words “or Hindu undivided family”, after the word “he” and the word “him”, where they occur, the words “or it”, and after the word “his” the words “or its” shall be inserted;

(b) after the word “partner”, the words “or by a company which for the purposes of this section is deemed to be a firm in which he or it is interested” shall be inserted;

(c) to the last proviso the following words shall be added, namely:—
“and such individual or Hindu undivided family shall not be treated as a working partner in relation to such business for the purpose of sub-clause (b) of clause (1) of section 2.”

15. Amendment of Schedule II, Act XXI of 1947.—In rule 2 of Schedule II to the said Act,—

(a) for sub-rules (1) and (2), the following sub-rule shall be substituted, namely:—

“(1) Where the company is one to which rule 3 of Schedule I applies, its capital shall be the sum of the amounts of its paid-up share capital and of its reserves in so far as they have not been allowed in computing the profits of the company for the purposes of the Indian Income-tax Act, 1922 (XI of 1922), diminished by the cost to it of its investments or other property the income from which is not includable in the profits, so far as that cost exceeds any debt for money borrowed by it.”;

(b) sub-rule (3) shall be renumbered as sub-rule (2).

ACT NO. XLIX OF 1948.

An Act further to amend the Taxation on Income (Investigation Commission) Act, 1947.

WHEREAS it is expedient further to amend the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Taxation on Income (Investigation Commission) (Second Amendment) Act, 1948.

2. Amendment of section 5, Act XXX of 1947.—In section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the words and figures “30th day of June, 1948”, wherever they occur, the words and figures “1st day of September, 1948” shall be substituted.

3. Repeal of Ordinance XV of 1948.—(1) The Taxation on Income (Investigation Commission) (Amendment) Ordinance, 1948 (XV of 1948), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 30th day of June, 1948.

ACT No. L OF 1948.

An Act further to amend the Cantonments Act, 1924

WHEREAS it is expedient further to amend the Cantonments Act, 1924 (II of 1924), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Cantonments (Amendment) Act, 1948.

2. **Amendment of sections 12 and 280, Act II of 1924.**—In section 12 and in clause (cc) of sub-section (2) of section 280 of the Cantonments Act, 1924 (hereinafter referred to as the said Act), for the words "Service of Executive Officers", the words "Military Lands and Cantonments Service" shall be substituted.

3. **Amendment of section 276, Act II of 1924.**—In section 276 of the said Act, the words, letter, brackets and figures "clause (a) of section 137" shall be omitted.

ACT No. LI OF 1948.

An Act to change the name of the Imperial Library.

WHEREAS it is expedient to change the name of the Imperial Library;

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Imperial Library (Change of Name) Act, 1948.

2. **Imperial Library to be known as "National Library"**.—On and after the commencement of this Act, the Imperial Library shall be known as "the National Library", and any reference to the Imperial Library in any law for the time being in force or in any indenture, instrument or other document shall be construed as a reference to the National Library.

ACT No. LII OF 1948.

An Act to amend the Bombay Public Security Measures Act, 1947, as extended to the Province of Delhi.

WHEREAS it is expedient to amend the Bombay Public Security Measures Act, 1947 (Bombay Act VI of 1947), as extended to the Province of Delhi, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and extent.**—(1) This Act may be called the Bombay Public Security Measures (Delhi Amendment) Act, 1948.

(2) It extends to the Province of Delhi.

2. Amendment of section 13 of Bombay Act VI of 1947 as extended to Delhi.—After sub-section (2) of section 13 of the Bombay Public Security Measures Act, 1947 (Bombay Act VI of 1947), as extended to the Province of Delhi, the following sub-section shall be inserted, and shall be deemed always to have been inserted, namely:—

“(2A) A Special Judge trying an offence under this Act may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof. Any pardon so tendered shall, for the purposes of sections 339 and 339A of the Code, be deemed to have been tendered under section 338 of the Code.”

3. Repeal of Ordinance XIV of 1948.—The Bombay Public Security Measures Act (Delhi Amendment) Ordinance, 1948 (XIV of 1948), is hereby repealed.

ACT No. LIII OF 1948.

An Act to provide for the regulation of mines and oilfields and for the development of minerals.

WHEREAS it is expedient in the public interest to provide for the regulation of mines and oilfields and for the development of minerals to the extent hereinafter specified;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Mines and Minerals (Regulation and Development) Act, 1948.

(2) It extends to all the Provinces of India and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects mines and oilfields and the development of minerals.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Declaration as to expediency of control by Central Government.—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of mines and oilfields and the development of minerals to the extent hereinafter provided.

3. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) the expressions “lessor” and “lessee” respectively include a licensor and licensee;

(b) “mine” means any excavation for the purpose of searching for or obtaining minerals and includes an oil-well;

(c) “minerals” include natural gas and petroleum;

(d) “mining lease” means a lease granted for the purpose of searching for, winning, working, getting, making merchantable, carrying away or disposing of minerals or for purposes connected therewith, and includes an exploring or a prospecting license;

(e) “oilfield” means any area where any operation for the purpose of obtaining natural gas and petroleum, crude oil, refined oil, partially refined oil and any of the products of petroleum in a liquid or solid state, is to be or is being carried on.

4. No mining lease to be valid unless it is in accordance with this Act.—(1)

No mining lease shall be granted after the commencement of this Act otherwise than in accordance with the rules made under this Act.

(2) Any mining lease granted contrary to the provisions of sub-section (1) shall be void and of no effect.

5. Power to make rules as respects mining leases.—(1) The Central Government may, by notification in the official Gazette, make rules for regulating the grant of mining leases or for prohibiting the grant of such leases in respect of any mineral or in any area.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which, the minerals or areas in respect of which and the persons by whom, applications for mining leases may be made and the fees to be paid on any such applications;

(b) the authority by which, the terms on which, and the conditions subject to which, mining leases may be granted;

(c) the maximum or minimum area and the period for which any mining lease may be granted, and the terms on which leases in respect of contiguous areas may be amalgamated;

(d) the fixing of the maximum and minimum rent payable by a lessee, whether the mine is worked or not.

6. Power to make rules as respects mineral development.—(1) The Central Government may, by notification in the official Gazette, make rules for the conservation and development of minerals.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the regulation or prohibition of the mining, quarrying or digging for or the excavating or collecting of minerals from any mine or in any area;

(b) the manner in which and the persons by whom any mineral or any area as respects which the grant of mining leases is prohibited may be developed or worked;

(c) the development of any mineral resources in any area by prescribing or regulating the use of any engines, machinery or other equipment;

(d) the regulation of the drilling, re-drilling, deepening, shutting down, plugging and abandoning of oilwells in an oilfield and for the limitation or prohibition of such operations and for the taking of remedial measures to prevent waste of or damage to oil;

(e) the regulation of the methods of producing oil in any oilfield, and the limitation or prohibition of such methods;

(f) the compulsory notification of all new borings and shaft sinkings, and the preservation of boring records and specimens of cores of all new bore-holes;

(g) the taking of samples from mines and new bore-holes;

(h) the regulation of the arrangements for the storage of minerals and the stocks thereof that may be kept by any person;

(i) the levy and collection of royalties, fees or taxes in respect of minerals mined, quarried, excavated or collected;

(j) the submission by the owners or lessees of mines of special or periodical returns and reports, and the forms in which and the authorities to whom such returns and reports shall be submitted.

7. Power to make rules for modification of existing leases.—(1) The Central Government may, by notification in the official Gazette, make rules for the purpose of modifying or altering the terms and conditions of any mining lease granted prior to the commencement of this Act so as to bring such lease into conformity with the rules made under sections 5 and 6:

Provided that any rules so made which provide for the matters mentioned in clause (c) of sub-section (2) shall not come into force until they have been approved, either with or without modifications, by the Central Legislature.

(2) The rules made under sub-section (1) shall provide—

(a) for giving previous notice of the modification or alteration proposed to be made thereunder to the lessee, and where the lessor is not the Central Government, also to the lessor, and for affording them an opportunity of showing cause against the proposal;

(b) for the payment of compensation by the party who would be benefited by the proposed modification or alteration to the party whose rights under the existing lease would thereby be adversely affected; and

(c) for the principles on which, the manner in which and the authority by which the said compensation shall be determined.

8. Delegation.—The Central Government may, by notification in the official Gazette, direct that any power exercisable under this Act shall be exercised, subject to such conditions, if any, as may be specified therein by such officer or authority as may be specified in the direction.

9. Penalties.—(1) Any rule made under any of the provisions of this Act may provide that any contravention thereof shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) Whoever, after having been convicted of any offence referred to in sub-section (1), continues to commit such offence shall be punishable for each day after the date of the first conviction during which he continues so to offend, with fine which may extend to one hundred rupees.

10. Rules to be laid before the Legislature.—All rules made under any of the provisions of this Act shall be laid before the Central Legislature as soon as may be after they are made.

11. Power of inspection.—(1) For the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any other purpose mentioned in this Act or the rules made thereunder, any officer authorised by the Central Government in this behalf shall have the right to—

(a) enter and inspect any mine;

(b) order the production of any document, book, register or record in the possession or power of any person having the control of or connected with, any mine;

(c) examine any person having the control of, or connected with, any mine.

(2) Any officer authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

12. Relaxation of rules in special cases.—The Central Government may, if satisfied that it is in the public interest so to do, authorise in any case the granting of any mining lease or the working of any mine on terms and conditions different from those laid down in the rules made under sections 5 and 6.

13. Act to be binding on the Crown.—The provisions of this Act shall be binding on the Crown, whether in the right of the Dominion or of a Province.

14. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.

